to the evidence of an expert witness in proceedings brought under Section 4(1)(c) of the Common Gaming Houses Ordinance. I appreciated at the time that I had gone further in relaxing the explanatory evidence required of the expert witness and placing added responsibility on the Magistrate than had any previous decision on the subject. In view of subsequent decisions and in particular the one I mention below I propose to apply the principles I then set out in deciding the present appeal.

It is now not only settled law that the Character's lottery constitutes a lottery within the meaning of the Common Gaming Houses Ordinance, but the summary Courts have for their guidance descriptions of the operation of these lotteries in judgments of the High Court and recently by the full Court of Appeal in *Lee Seow* v. *Public Prosecutor*[2]. It seems to me therefore that descriptions by expert witnesses of the *modus operandi* of these lotteries are no longer necessary except where a Magistrate of his own accord and for his own further enlightenment requires such evidence. In my view all that is now necessary is precisely what took place in the present case, namely a description and explanation by the expert witness of the exhibits and careful examination and consideration of them by the trial Magistrate in the light of the expert's opinion to enable him to form his own independent judgment. This was done in the case under consideration and the appeals are dismissed.

Appeal dismissed.

GHANI BIN JONIT v. REG.

[C. C. A. (Rose C.J., Tan Ah Tah and Wee Chong Jin JJ.) March 23, 1959]

[Singapore — Criminal Appeal No. 1 of 1959]

Evidence — Eye-witnesses — Discrepancies — Weight of evidence — Matter for the jury.

Where a case depends to a great extent upon the evidence of eye-witnesses, and there are discrepancies not only between the evidence given in the Preliminary Inquiry and that before the trial Court but also between the various witnesses themselves as to details of the episode, the weight to be given to discrepancies in any particular case is a matter for the jury.

COURT OF CRIMINAL APPEAL.

F. B. Oehlers for the appellant.

A. W. Ghows (Crown Counsel) for the respondent.

Rose C.J.: The facts of this case are sufficiently set out in the charge, and it is unnecessary for us to refer to them in any detail. Counsel for the appellant has raised with great care on behalf of his client a number of points, but in fact the serious matters for our consideration fall under three heads. First, as to the discrepancies in the evidence; secondly, as to the possibility of identification; and thirdly, whether it was established that a payment of money was made to the appellant in the course of the afternoon some three hours or so before the episode in question.

First, with regard to the discrepancies. This is one of those cases that depend to a great extent, upon the evidence of eye-witnesses. Now, as almost invariably happens in cases of this sort, there are discrepancies not only between the evidence given in the Preliminary Inquiry and that before the trial court, but also between the various witnesses themselves as to details of the episode. The weight to be given to discrepancies in any particular case is eminently a matter for the Jury. The question we have to consider here is whether the charge of the learned Judge was sufficiently clear to enable them to make up their minds on this matter. There has been no suggestion — indeed, we have studied the charge and there is no ground for any such suggestion — that the matter was not properly put by the trial Judge. We do not, therefore, consider that there is any substance in that ground of appeal.

Now, a matter that in the course of the trial became of some importance was the question of the payment of the sum of $90, and the prosecution case is that that sum of money was paid on the afternoon of the day in question to the appellant and that there was therefore no legitimate reason for the appellant to return to the scene on that evening some three hours later, the prosecution suggestion, of course, being that the only reason for his return was that he wished to commit an act of vengeance against the witness, Kow Sim Chiang. The defence — and this was stated in evidence by the appellant himself — was that the purpose of his going to the scene that evening after dark was to obtain this money, and that he had not in fact received satisfaction in the afternoon. If the defence contention is true on that point, it does give an innocent explanation for the appellant's presence at the scene, and that matter therefore would demand the very careful attention of the Jury.

Now, with regard to that, the position is that the witness in question states that he paid the money. Another witness, Mr. Vander Ven, says that while he did not actually see the money handed over, he saw the wife of the witness Kow Sim Chiang take the money from the purse and he presumed that payment was made, and it was on the basis of that presumption that he made a very relevant observation to the appellant to the effect — "Now that you have got your money can we not be friends?" And according to the evidence — there was no suggestion in cross-examination of this witness to the contrary — the appellant did not dispute the payment at that time.

Now in addition to that you have the position that this witness Kow Sim Chiang was apprehensive as a result of the attitude of the appellant during this visit, and he therefore went and made a report to the police to the effect that the money

had been paid and that he was apprehensive of the events that might follow.

Those again were matters eminently suited for consideration of the Jury. The question we have to consider is, were they properly put — reasonably and fairly put — by the learned trial judge in his charge. We have studied the charge with care and we are satisfied that these matters were perfectly properly and perfectly fairly put to the Jury and that there was no misdirection in that regard. Therefore we consider that there is no substance on this ground of appeal also.

We now have the question that is of course always one of relevance in these identification cases, that is, whether the circumstances at the time were such as would have made it reasonably likely that the eye-witnesses could have identified. And there then arises the additional question as to whether they in fact did so. The first question to be considered is whether the conditions were such that identification was possible, and that, of course, would depend — as it was night — to some extent on the lighting. We are told that it was dark. We assume there was no moon, but there is the evidence of the police witness, the Inspector, who was there, that there was artificial lighting. The learned trial judge when putting that matter to the Jury said they should consider the factual evidence — that is, the evidence of the police officer on this matter of the lighting — and that they should also consider the fact that the place was a community centre, and that therefore they could reasonably infer that there was sufficient light to enable an identification to be made. It seems to us that that was a perfectly fair way of putting the matter to the Jury and does not afford any substantial ground of complaint.

The next question is whether there was in fact identification, and that, of course, again is entirely a matter for the Jury's consideration. We have the evidence of one witness who said he saw the accused stab. Provided that there was no misdirection — and there is no suggestion, indeed there can be no ground for any suggestion that this was the case — the matter remains, in our opinion, eminently for the consideration of the Jury.

Therefore, having regard to all these matters we are unable to say that the verdict was unreasonable, or that there was any substantial misdirection.

The appeal is therefore dismissed and the conviction confirmed.

Appeal dismissed.

Solicitors: *Oehlers & Co.*

QUEK SENG HEE v. WAH KIM BENG

[C. A. (Rose C.J., Tan Ah Tah and Buttrose JJ.) March 25, 1959]

[Singapore — Civil Appeal No. 2 of 1959]

Damages — Special damages for period 12 months following accident — Abolition of post — No prospect of continued employment.

Even if the particular post which the plaintiff held at the time of the accident was shortly to be abolished and he had no prospect of continued employment with a particular firm, it would not be fair to assume that he could not have got some sort of employment during that period and this shall be taken into consideration in increasing the damages.

COURT OF APPEAL.

N. A. Christopher for the appellant.
D. G. Ironside for the respondent.

Rose C.J.: This is an appeal purely on the question of damages.

The appellant no doubt sustained severe injuries, involving a compound fracture of a leg and the fracture of five or six ribs with complications. There was also an injury to the liver; and concussion.

As regards the general damage, while perhaps the sum awarded is on the low side, we consider that in the light of the principles which guide appeal courts in these matters it cannot be said that the sum is manifestly too low. The award of $10,000 must therefore remain undisturbed.

There arises, however, a matter relating to special damage, which the learned Judge appears to have dealt with under the head of general damages. It relates to a period of twelve months following the accident during which the appellant was unable to engage in any employment.

While it is true, as the learned trial Judge pointed out, that the particular post which the appellant held at the time of the accident was shortly to be abolished and that the appellant had no prospect of continued employment with the particular firm, it seems to us that it is not fair to the appellant to assume that he could not have got some sort of employment during that period.

An estimate should, we think, be made as to the sort of wage that the appellant would be likely to have been able to obtain had he been fit to work during that twelve months' period. Any such sum so awarded properly falls, in our opinion, under the head of special damages.

We consider that for the twelve months in question a reasonable estimate of the appellant's likely earnings would be $2,000, and we therefore award him that amount under the head of special damages in addition to the sums already so awarded by the learned trial Judge.

The appellant will have the costs of this appeal. The $500 which was paid as security for this appeal must be paid out to the appellant.

Appeal allowed.

Solicitors: *de Souza & Christopher; Battenberg & Talma.*